

Two Unpatriotic Acts

**Don't let troops come home to
a nation that destroys civil liberties.**

BY JOHN CONYERS JR.

James Madison, founding father and architect of the U.S. Constitution, warned, "The essence of government is power, and power, lodged as it must be in human hands, will ever be liable to abuse." His words, uttered more than 200 years ago, are proving to be prophetic today.

In the immediate aftermath of the Sept. 11 attacks, the Bush administration rushed through Congress the USA Patriot Act, a sweeping bill that gave the government unprecedented authority to search, wiretap, arrest, and detain American citizens and residents not just for suspected terrorist activity, but in every type of federal investigation. The act allowed law enforcement to search homes and indefinitely delay notification to a court; permitted immigrants to be deported for donating money to groups they didn't know aided terrorists; allowed the attorney general to make unilateral decisions to detain noncitizens indefinitely; and expanded the authority of the Central Intelligence Agency to wiretap people in the United States, including citizens.

Perhaps the only saving grace of the Patriot Act was that these losses of liberty were supposed to be temporary. Many of the worst provisions are scheduled to expire at the end of 2005. But now Senate Republicans are attempting to make these sweeping powers permanent. In the flush of victory in Baghdad, what else might the Bush administration push through Congress?

I fear the administration is poised to unleash the so-called Patriot II bill, written in secret and (fortunately) leaked to the public in February. The war with Saddam Hussein pushed discussion of that draft legislation out of the public debate. But before we forget: The Patriot II bill would constitute the most sweeping and broad-based attack on civil liberties in our nation's history.

In an unprecedented violation of the rights that Madison and the other Founders fought for and secured for all Americans,

the Patriot II legislation would authorize numerous new intrusions on our precious civil liberties. These include the authorization of secret arrests, the construction of detailed government databases on our personal lives, the secret revocation of citizenship, and the expansion of the government's ability to search homes and tap phones without a warrant.

Under this Orwellian proposal, for the first time in our history, our laws would permit secret arrests and detentions. People could literally disappear off the street, and their families would have no idea what had happened to them. Such clandestine tactics are routinely practiced by dictatorships, not democracies, and certainly not by a nation that has long prided itself on being the most freedom-loving on earth.

The draft Patriot II bill would also allow the government to create a national DNA registry. The government would be able to establish a database of DNA samples and fingerprints of "suspected terrorists," broadly defined to include anyone the attorney general or the secretary of defense believes has engaged in terrorism or associated with a suspected terrorist group. Under these surreptitious surveillance measures, the government could keep detailed forensic dossiers on law-abiding Americans. No one would be safe.

Another terrifying section of the draft would give the government new authority to revoke citizenship. Specifically, an American citizen could be investigated without his knowledge and then have his citizenship stripped if "he becomes a member of, or provides material support to, a group that the United States has designated as a 'terrorist organization.'"

Previously, citizens had to state their intention to relinquish their citizenship. Under the new provision, the government could simply infer such intent from conduct. As a result, any citizen, even a native-born American, who engaged in the entirely lawful activities of a group that the attorney general chose to designate as a "terrorist organization" could be expatriated or potentially consigned to indefinite imprisonment as an undocumented alien.

The administration's proposal would make it easier for the government to initiate surveillance and wiretapping of U.S. citizens with the authorization of the top-secret Foreign Intelligence Surveillance Court and, in some situations, to bypass the court altogether. Also, federal agents would have greater authority to illegally search our homes and yet be immune from criminal prosecution as long as they were simply following the orders of higher executive branch officials. These measures are a bold attempt to make legal what all Americans understand to be a clear abuse of government power.

In all, the unprecedented powers of the Patriot II legislation would provide the government with new unchecked authority to gather personal and private information about, arrest, detain, and even expel American citizens in secrecy—a prospect that is truly Kafkaesque. If we permit these new authorities to become law, then the terrorists will truly have won, for they will have pushed the United States to do what no foreign force could ever have done directly—turn our government against us.

America's past is filled with incidents of overreaction. During the Revolutionary War, the Civil War, World War I, World War II, and the Vietnam War, the government investigated private lives, criminalized political expression, and arrested and detained law-abiding citizens. We now regret each one of these tragic episodes, but their lessons still haven't been learned. The Bush administration's Patriot II proposal has confirmed my gravest fears that we are doomed to repeat these mistakes.

The secret draft was composed before the war in Iraq. It may only be a matter of time before it is formally introduced.

Indeed, since the invasion of Iraq began, the administration has unilaterally decided to step up its attacks on our freedoms. For example, under the name Operation Liberty Shield, they are searching cars at airports and trucks on highways, and monitoring Internet communications and financial transactions based primarily on an individual's ethnicity. The FBI has been using a fleet of aircraft, some equipped with night surveillance and eavesdropping equipment, to track our movements and listen in on our cell phone conversations. They have also issued scores of "national security letters" that require businesses to turn over records about finances, telephone calls, e-mail, and other personal information with no immediate court oversight and without having to inform the targets of the investigation that the government has obtained their personal records or put them under surveillance.

When our soldiers are in harm's way, there is an understandable wish on the part of all Americans to support them and their commanders. But we cannot let our concerns for the troops overseas and worries about terrorism at home be turned against the democratic values for which we stand.

If we are to be true to our founding principles, we all need to speak against these investigatory and surveillance tactics. We must not let our fears diminish the very freedoms so many have fought so long to protect.

John Conyers Jr., a Democrat who represents the 14th Congressional District in Michigan, is the ranking member on the House Judiciary Committee.